

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

GLENN MATHIS)
)
v.) NOS. 2:05-CV-149
) 2:02-CR-86
UNITED STATES OF AMERICA) JUDGE GREER

MEMORANDUM OPINION AND ORDER

Glen Mathis, a federal prisoner, has filed a “Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody” [Doc. 1]. The United States has responded to the motion [Doc. 17]. The motion was referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636 for a report and recommendation (“R&R”) [Doc. 22]. The Magistrate Judge has filed his R&R [Doc. 23] and the matter is before the Court on objections filed by the petitioner [Doc. 24].

Title 28 U.S.C. § 636 provides that, whenever objection is made to a report and recommendation of the magistrate judge, this court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” The court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” After careful consideration of the record and a *de novo* review of the report and recommendation, the Court accepts and approves in whole the findings and recommendations made by the Magistrate Judge. The objections of the petitioner are OVERRULED and the motion to vacate, set aside or correct petitioner’s sentence pursuant to 28 U.S.C. § 2255 will be DENIED.

Under 28 U.S.C. § 2253(c)(2), the Court must determine whether a certificate of appealability should be granted. A certificate should issue if petitioner has demonstrated a “substantial

showing of a denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The Sixth Circuit Court of Appeals disapproves of the issuance of blanket denials of certificates of appealability. *Murphy v. Ohio*, 263 F.3d 466 (6th Cir. 2001). The district court must “engage in a reasoned assessment of each claim” to determine whether a certificate is warranted. *Id.* at 467. Each issue must be considered under the standard set forth by the Supreme Court in *Slack v. McDaniel*, 529 U.S. 473 (2000).

Under *Slack*, to warrant a grant of the certificate, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” Having examined each of the petitioner’s claims under the *Slack* standard, the Court finds that reasonable jurists could not find that this Court’s dismissal of petitioner’s claims was debatable or wrong. Therefore, the Court will deny petitioner a certificate of appealability.

SO ORDERED.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT
s/ Patricia L. McNutt
CLERK OF COURT